

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7647

JOSE LOPEZ,

Plaintiff - Appellant,

versus

S. K. YOUNG; RICHARD PHILLIPS; OFFICER
D. GREER; SERGEANT BURTIN; LIEUTENANT RAYNOLDS,
or Reynolds; CORRECTIONAL OFFICER KING;
BUCHANAN; YATES; MS. YEARY; BELLAMY; LIEUTENANT
COLLINS; CORRECTIONAL OFFICER MICHAEL FLEMING;
CORRECTIONAL OFFICER TOMMY JACKSON; NURSE TAMMY
THOMAS; LIEUTENANT DONNIE LESTER; BENTLEY;
ANDERSON; F. WILLIS; TERESA L. JOHNSON; MR.
PHILLIPS, Assistant Warden of Programs; MS.
BAKER; BLILEY; BRIAN KISER; R. A. YOUNG; PAUL
OHAI, M.D.; KENNETH SLATER, M.D.,

Defendants - Appellees,

and

NURSE SHERRY STAFFORD; NURSE VICKY HARBER;
NURSE HARPER; MS. MCCURRY; MS. BERRY; SMITH;
MS. MULLINS; MEDICAL DEPARTMENT; GRIEVANCE
DEPARTMENT; INSTITUTIONAL ADMINISTRATORS,
Wallens Ridge State Prison,

Defendants.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, Senior District Judge. (CA-01-876)

Submitted: February 24, 2005

Decided: March 7, 2005

Before NIEMEYER, WILLIAMS, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jose Lopez, Appellant Pro Se. Pamela Anne Sargent, Assistant Attorney General, Richmond, Virginia; Peter Duane Vieth, WOOTENHART, PLC, Roanoke, Virginia; Edward Joseph McNelis, III, Coreen Antoinette Bromfield, RAWLS & MCNELIS, P.C., for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Jose Lopez appeals from the district court's order in his 42 U.S.C. § 1983 (2000) action that granted summary judgment to certain defendants and dismissed certain claims for failure to exhaust state remedies or failure to state a claim. This Court has jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders. 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). A final decision is one that "ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." Catlin v. United States, 324 U.S. 229, 233 (1945). When a district court dismisses fewer than all claims as to the order, it is neither a final order nor an appealable interlocutory or collateral order. See Baird v. Palmer, 114 F.3d 39, 42 (4th Cir. 1997).

We deny Lopez's motion to lift stay and for leave to file an interlocutory appeal and dismiss the appeal as interlocutory. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED